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Letter dated 13 August 2001 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council

I have the honour to enclose herewith an article that appeared in the *Washington Times* on 10 August 2001 entitled "Making it right in Sudan" (see annex).

The paper indicated that it is now widely recognized that the United States of America acted hastily and mistakenly in bombing the Alshifa pharmaceutical factory and that Congress should right the wrong and compensate the victims, including the owner.

The paper also stated that Washington should confess when it makes mistakes. Indeed, in recent years, the United States has provided compensation after shooting down an Iranian airliner and the Chinese Embassy in Belgrade. It should do the same for destroying the Alshifa pharmaceutical plant. Demonstrating that America is just as well as powerful is more important that protecting Clinton's reputation.

I would be grateful if the present letter and its annex could be circulated as a document of the Security Council.

(*Signed*) Elfatih **Erwa**
Permanent Representative

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Annex to the letter dated 13 August 2001 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council

Making it right in Sudan

By Doug Bandow
Washington Times
August10,2001

Three years ago, in the midst of the Monica Lewinsky scandal, President Bill Clinton launched a missile strike against a Sudanese pharmaceutical factory, claiming that it manufactured chemical weapons. It is now widely recognized that the United States acted hastily and mistakenly. Congress should right the wrong and compensate the victims, including the owner.

Terrorism poses one of the most serious security threats to the United States today. On Aug. 20, 1998, shortly after his grand jury testimony in the Lewinsky case, the president ordered attacks on training camps in Afghanistan and the El-Shifa pharmaceutical plant in North Khartoum, Sudan. The latter was targeted because of its alleged ties to terrorist Osama Bin Laden. Four days later the United States froze $24 million of the plant owner's assets.

The timing of the incident, given the president's political problems, was suspicious enough. Indeed, U.S. officials had previously approved a U.N. contract with the El-Shifa plant to ship veterinary medicine to Iraq as part of the oil-for-food program.

Many administration claims were almost immediately discredited. In a detailed study Michael Barletta of the Center for Nonproliferation Studies reported that "senior U.S. officials were shown to have been ignorant of key facts at the time of their decision to bomb the plant."

Evidence emerged suggesting that the El-Shifa plant made pharmaceuticals – supplying more than half of Sudan's demand – not weapons, and that owner, Salah Idris, was a businessman, not a terrorist. In fact, the administration quickly backtracked on claims that Mr. Idris, who bought the plant just five months before it was bombed, was linked to Bin Laden.

Outsiders freely visited the plant and said it was not guarded and that it lacked the extra space, equipment, materials and air-sealed doors necessary for chemical weapons work (which requires sophistication rarely seen in a state like Sudan). The Eastern and Southern African Trade and Development Bank, which provided Mr. Idris with a loan, audited the operation and found nothing amiss.

The soil sample that supposedly contained the chemical EMPTA, which is used in the production of VX, a nerve gas, as well as some innocent applications, appeared flawed and could not be replicated by American chemists brought in by Mr. Idris. Yet the United States opposed inspecting the rubble, as proposed by Mr. Idris and Sudanese government authorities, even though doing so likely would have confirmed any presence of EMPTA.

Finally, the attempt to tie Mr. Idris to the odious regime in Khartoum failed. Some suspected that he owed his privileged position to financial support for the government, but Sudanese dissidents said he was nonpolitical. There was also some information suggesting that his family was active with the opposition.

Although it is virtually impossible to prove that no portion of the plant was ever used to produce a chemical weapons agent, the administration failed any affirmative burden of proof. Mr. Barletta observed that "Important aspects of the U.S. explanation for the bombing did not withstand careful scrutiny."

In early 1999 Mr. Idris filed suit against the Treasury Department to lift the asset freeze. One administration official responded that his lawyers had "confused who the good guys are and who the bad guys are." But rather than defend itself, the government freed Mr. Idris' funds.

Now he wants to rebuild the plant – the Sudanese are desperate for drugs as well as other medical supplies – and is hoping to win compensation for the $30 million plant. The government, however, has claimed sovereign immunity; that is, it has refused to be sued for its acts. Mr. Idris' best hope is for congressional redress.

Rep. Dana Rohrabacher has introduced legislation to reimburse Mr. Idris, but legislators are hesitant to take on this controversy. So Mr. Rohrabacher has also proposed a resolution asking the Court of Claims to investigate Mr. Idris' claim.

Congress typically makes about 10 referrals a year, a hearing officer prepares a report for a three judge panel, which sends its conclusion to Congress. The court could not award any money, but could endorse a claim, even one barred by procedural rules such as sovereign immunity.

An impartial assessment is necessary. So far Washington has claimed the right to be judge and jury in its own case, all the while refusing to make public any of its evidence – in sharp contrast to the Reagan administration, which did do so to justify its retaliatory strike on Libya nearly two decades ago.

Thus, it is impossible to give the government the benefit of the doubt. As Mr. Barletta concluded: "It remains possible that at some point in time, a small quantity of a VX precursor chemical was produced or stored in Shifa or transported through or near it. However, the balance of available evidence indicates that the facility probably had no role whatsoever in CW development."

Nor does it make sense to force Mr. Idris to go through the motion of finishing all of his appeals. He held off suing for two years in an attempt to negotiate a settlement; now the government is relying on sovereign immunity. Waiting will merely exacerbate the injustice committed.

The United States should take tough action in response to terrorism. But Washington also should confess when it makes a mistake. Indeed, in recent years the United States has provided compensation after shooting down an Iranian airliner and bombing the Chinese embassy in Belgrade. It should do the same for destroying the El-Shifa pharmaceutical plant in Sudan. Demonstrating that America is just as well as powerful is more important than protecting the Clinton administration's reputation.

Doug Bandow is a senior fellow at the Cato Institute.